

CITY OF ALAMEDA RESOLUTION NO. 7477

ADOPTING RULES AND REGULATIONS TO CARRY OUT
PROVISIONS OF EMPLOYER-EMPLOYEE RELATIONS
RESOLUTION

WHEREAS, the City Council has this date adopted Resolution No. 7476, entitled, "IMPLEMENTING MEYERS-MILIANS-BROWN ACT BY ESTABLISHING PROCEDURES FOR ADMINISTRATION OF EMPLOYER-EMPLOYEE RELATIONS BETWEEN CITY AND ITS EMPLOYEE ORGANIZATIONS; AND FOR RESOLVING MATTERS AFFECTING EMPLOYMENT," and it is necessary and desirable that, pursuant to Section 16 of said Resolution, certain rules and regulations be adopted in order to implement and carry out the procedures set forth therein,

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ALAMEDA that:

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Section 1. STATEMENT OF PURPOSE

The purpose of these Rules and Regulations is to implement the Resolution hereinabove in the recital referred to (hereinafter, "Resolution") and also Chapter 10, Division 4, Title I of the Government Code of the State of California (Sections 3500 and following).

Section 2. DEFINITIONS

(A) The terms used in these Rules and Regulations shall have the same meaning as those defined in Section 3 of said Resolution.

(B) DAYS - means "calendar days" unless otherwise stated.

Section 3. RULE 1 - REPRESENTATION PROCEEDINGS

(A) FORMAL RECOGNITION AS THE MAJORITY REPRESENTATIVE IN AN APPROPRIATE UNIT

(1) An employee organization that seeks formal recognition as the majority representative in an appropriate unit shall file a Petition for Recognition with the Municipal Employee Relations Officer containing all of the information set forth in Section 9 (A) of the Resolution, accompanied by written proof that at least 30% of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party. Upon receipt of the Petition for Recognition, the Municipal Employee Relations Officer shall determine whether: (i) there has been compliance with the requirements of the Petition for Recognition, and (ii) the proposed unit is an appropriate unit. If an affirmative determination is made by the Municipal Employee Relations Officer on the foregoing two matters,

he shall give notice of such request for formal recognition to the employees in the unit and shall take no action on said request for 30 days thereafter; if either of the foregoing matters are not affirmatively determined, the Municipal Employee Relations Officer shall inform the employee organization of the reasons therefor in writing.

(2) Within 30 days of the date notice to employees is given, any other employee organization (hereinafter referred to as the "challenging organization") may seek formal recognition in an overlapping unit by filing a Petition for Recognition, provided, however, such challenging organization must submit written proof that it represents at least 30% of the employees in such unit. The Municipal Employee Relations Officer shall hold a hearing on such overlapping Petitions, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between such proposed overlapping units in accordance with the criteria set forth in Section 10 of the Resolution.

(3) If the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than 50% of the employees in such unit, the Municipal Employee Relations Officer may, in his discretion, grant formal recognition to such employee organization without a secret ballot election.

(4) When an employee organization in the unit found to be appropriate submits written proof that it represents at least 30% of the employees in such unit, and it does not qualify for or has not been granted recognition pursuant to Sub-Section 3 above, the Municipal Employee

Relations Officer shall arrange for a secret ballot election to be conducted by the City Clerk, the California State Conciliation Service, the American Arbitration Association, or some agreed upon third party. All challenging organizations who have submitted written proof that they represent at least 10% of the employees in the unit found to be appropriate, and have submitted a Petition for Recognition as required by Section 9 of the Resolution, shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons regularly employed in permanent positions within the unit who were employed during the pay period immediately prior to the date which is 15 days before the election, including those who did not work during such period because of illness, vacation or authorized leaves of absence and who are employed by the City in the same unit on the date of the election. An employee organization shall be granted formal recognition following an election or run-off election if: (i) that employee organization has received the vote of a numerical majority of all the employees eligible to vote in the unit in which the election is held (i.e., 50% plus 1 of the votes of all eligible employees), or (ii) in an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election shall also apply to a run-off election.

(5) There shall be no more than one valid election in a 12 month period within the same unit.

(B) DECERTIFICATION OF ESTABLISHED UNIT

(1) A Petition for Decertification alleging that an employee organization granted formal recognition is no longer the majority representative of the employees in an appropriate unit may be filed with the Municipal Employee Relations Officer only during the month of November of each year following the first full year of formal recognition. The Petition for Decertification may be filed by an employee, a group of employees or their representative, or an employee organization. The Petition, including all accompanying documents, shall be verified, under oath, by the person signing it, that its contents are true. It may be accompanied by a Petition for Recognition by a challenging organization. The Petition for Decertification shall contain the following information:

- (i) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- (ii) The name of the formally recognized employee organization.
- (iii) An allegation that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts.
- (iv) Written proof that at least 30% of the employees in the unit do not desire to be represented by the formally recognized employee organization. Such written proof shall be dated within six months of the date upon which the petition is filed and shall be submitted for confirmation to the Municipal Employee

Relations Officer or to a mutually agreed upon disinterested third party.

(2) The Municipal Employee Relations Officer shall arrange for a secret ballot election to determine if the formally recognized employee organization shall retain its recognition rights. The formally recognized employee organization shall be decertified if a majority of those eligible to cast valid ballots vote for decertification.

(3) There shall be no more than one valid decertification election in the same unit in any 12 month period.

(c) MODIFICATION OF ESTABLISHED UNIT

A Petition for Modification of an established unit may be filed by an employee organization with the Municipal Employee Relations Officer during the period for filing a Petition for Decertification. The Petition for Modification shall contain all of the information set forth in Section 9(A) of the Resolution, along with a statement of all relevant facts in support of the proposed modified unit. The Petition shall be accompanied by written proof that at least 50% of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the City; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party. The Municipal Employee Relations Officer shall hold a hearing on the Petition for Modification, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between the existing unit and the proposed modified unit. If the Municipal Employee Relations Officer determines that the proposed modified unit is the

appropriate unit, then he shall follow the procedures set forth in Section 3 (A) for determining formal recognition rights in such unit.

(D) DURATION OF FORMAL RECOGNITION

When an employee organization has been formally recognized, such recognition shall remain in effect for one year from the date thereof and thereafter until such time as the Municipal Employee Relations Officer shall determine, on the basis of a secret ballot election conducted in accordance with the foregoing rules, that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be modified as provided in Sub-Section (C).

(E) COST OF ELECTION PROCEEDINGS

The cost of any election proceeding shall be borne by the employee organization or organizations whose name(s) appear on the ballot.

(F) IMPASSES IN REPRESENTATION PROCEEDINGS

Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Sub-Sections (A), (B), (C), or (D) above shall be processed in accordance with the procedures set forth in Section 13 of the Resolution. Provided, however, the written request for an impasse meeting, as described in Section 13 of the Resolution, must be filed with the Municipal Employee Relations Officer, or the City Clerk, within 7 days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to the impasse procedures or to any other appeal.

Section 4. RULE 2 - REASONABLE TIME OFF TO MEET AND CONFER

The formally recognized employee organization may select not more than two employee members of such organization to attend scheduled meetings with the Municipal Employee Relations Officer or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. Where circumstances warrant, the Municipal Employee Relations Officer may approve the attendance at such meetings of additional employee representatives with or without loss of compensation. The employee organization shall, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings. Provided, further:

(1) that no employee representative shall leave his or her duty or work station or assignment without specific approval of the department head or other authorized City official.

(2) that any such meeting is subject to scheduling by the City in a manner consistent with operating needs and work schedules.

Nothing provided herein, however, shall limit or restrict the City from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

Section 5. RULE 3 - ACCESS TO WORK LOCATIONS

Reasonable access to employee work locations shall be granted officers of recognized employee organizations and their officially designated representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the Department Head or the Municipal Employee Relations Officer. Access shall be restricted so as not to interfere with

the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, will not be permitted during working hours.

Section 6. RULE 4 - USE OF CITY FACILITIES

Employee organizations may, with the prior approval of the Municipal Employee Relations Officer, be granted the use of City facilities during non-work hours for meetings of City employees provided space is available, and provided further such meetings are not used for organizational activities or membership drives of City employees. All such requests shall be in writing and shall state the purpose or purposes of the meeting. A copy of the meeting agenda shall be furnished to the Municipal Employee Relations Officer as soon as it is available, but in no event less than 24 hours prior to such meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

Section 7. RULE 5 - USE OF BULLETIN BOARDS

Recognized employee organizations may use portions of City bulletin boards under the following conditions:

- (1) All materials must receive the approval of the Municipal Employee Relations Officer.
- (2) All materials must be dated and must identify the organization that published them.
- (3) The actual posting of materials will be done by the City as soon as possible after they have been approved.

Unless special arrangements are made, materials posted will be removed 31 days after the publication date. Materials which said Officer considers objectionable will not be posted.

(4) The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to employee organizations' materials.

(5) An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

Section 8. RULE 6 - AVAILABILITY OF DATA

The City will make available to employee organizations such non-confidential information pertaining to employment relations as is contained in the public records of the agency, subject to the limitations and conditions set forth in this rule and Sections 6250-6260, Government Code of California.

Such information shall be made available during regular office hours in accordance with the City's rules and procedures for making public records available and after payment of reasonable costs, where applicable.

Information which shall be made available to employee organizations includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries, but shall not be made available in such form as to disclose the source.

Nothing in this rule shall be construed to require disclosure of records that are:

(1) Personnel, medical and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy or be contrary to merit system principles;

(2) Working papers or memoranda which are not retained in the ordinary course of business or any records where the public interest served by not making the record available clearly outweighs the public interest served by disclosure of the record;

(3) Records pertaining to pending or prospective litigations to which the City is a party, or to claims or appeals which have not been settled;

(4) Nothing in this rule shall be construed as requiring the City to do research for an inquirer or to do programming or assemble data in a manner other than usually done by the agency.

Section 9. RULE 7 - PEACEFUL PERFORMANCE OF CITY SERVICES

Participation by any employee in a strike or work stoppage is unlawful and shall subject the employee to disciplinary action, up to and including discharge.

No employee organization, its representatives, or members shall engage in, cause, instigate, encourage, or condone a strike or work stoppage of any kind.

If a recognized employee organization, its representatives, or members engage in, cause, instigate, encourage, or condone a strike or a work stoppage of any kind, in addition to any other lawful remedies or disciplinary actions, the Municipal Employee Relations Officer may suspend or revoke the recognition granted to such employee organization, and prohibit the use of bulletin boards, prohibit the use of City facilities, and prohibit access to former work or duty stations by such organization.

As used in this section "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole

or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

Any decision of the Municipal Employee Relations Officer made under the provisions of this Section may be appealed to the City Council by filing a written Notice of Appeal with the Municipal Employee Relations Officer or the City Clerk, accompanied by a complete statement setting forth all of the grounds upon which the appeal is based. Such Notice of Appeal must be filed within 7 days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to any other appeal.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted by the Council of the City of Alameda in regular meeting assembled on the 20th day of May, 1969, by the following vote, to wit:

AYES: Councilmen Fore, Levy, Longaker, McCall and President La Croix, Jr., (5).

NOES: None.

ABSENT: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 21st day of May, 1969.

Irene L. Nelson

City Clerk of the City of Alameda